

(a) *Current mortgages with FHA mortgage insurance* will be sold either:

(1) On a competitive basis to FHA-approved mortgagees; or

(2) On a negotiated basis, to State or local governments, or to a group of investors that includes an agency of a State or local government if, in addition to meeting the requirements of the Statute, the sales price is the best price that HUD can obtain from an agency of a State or local government while maintaining occupancy for the tenant group originally intended to be served by the subsidized housing program.

(b) *Current mortgages without FHA mortgage insurance* will be sold if HUD can offer protections equivalent to those listed for an insured sale in paragraph (a) of this section.

**§ 290.33 Sale of delinquent mortgages securing subsidized projects.**

Delinquent mortgages securing subsidized projects will be sold only if, as part of the sales transaction:

(a) The mortgages are restructured; and

(b) Either FHA mortgage insurance or equivalent protections are provided.

**§ 290.35 Sale of HUD-held mortgages securing unsubsidized projects.**

HUD's policy for selling HUD-held mortgages securing unsubsidized projects is as follows:

(a) *Current mortgages* may be sold with or without FHA mortgage insurance.

(b) *Delinquent mortgages* may be sold without FHA mortgage insurance. However, delinquent mortgages will not be sold if:

(1) HUD believes that foreclosure is unavoidable; and

(2) The project securing the mortgage is occupied by very low-income tenants who are not receiving housing assistance and would be likely to pay rent in excess of 30 percent of their adjusted monthly income if HUD sold the mortgage.

**§ 290.37 Requirements for continuing Federal rental subsidy contracts.**

For any mortgage that, at the time HUD offers the mortgage for sale without FHA mortgage insurance, is delin-

quent and secures a subsidized project or unsubsidized project that receives any of the forms of assistance enumerated in paragraphs (4)(i) to (4)(iv) of the "subsidized project" definition in § 290.3:

(a) The mortgage purchaser and its successors and assigns shall require the mortgagor to record a covenant running with the land as part of any loan restructuring or of a final compromise of the mortgage debt and shall include a covenant in any foreclosure deed executed in connection with the mortgage. The covenant shall continue in effect until the last federal project-based rental assistance contract expires by its own terms. The covenant shall provide that, except where otherwise approved by HUD, a project purchaser shall agree to assume the obligations of any outstanding:

(1) Project-based federal rental subsidy contract; and

(2) Tenant-based Section 8 housing assistance payments contract with a public housing agency and the related lease.

(b) In the event of foreclosure of the mortgage sold by HUD, the mortgage purchaser and its successors and assigns:

(1) Shall foreclose in a manner that does not interfere with any lease related to federal project-based assistance or any lease related to tenant-based, Section 8 housing assistance payments; and

(2) Shall foreclose in manner that ensures that the right of possession of the purchaser at a foreclosure sale shall be subject to the terms of any residential lease not subject to paragraph (b)(1) of this section for the remaining term of the lease or for one year, whichever period is shorter.

[61 FR 11685, Mar. 21, 1996, as amended at 61 FR 32265, June 21, 1996]

**§ 290.39 Nondiscrimination in admitting certificate and voucher holders.**

(a) *Nondiscrimination requirement.* For any mortgage described in paragraphs (c) or (d) of this section that HUD sells without FHA mortgage insurance, the project owner shall not unreasonably refuse to lease a dwelling unit offered for rent, offer to sell cooperative stock,